



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72037; File No. SR-BATS-2014-013)

April 28, 2014

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Short Term Option Series

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on April 24, 2014, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Interpretation and Policy .05 to Rule 19.6, entitled “Series of Options Contracts Open for Trading,” related to the expiration dates, classes, series, initial and additional series listed in, and strike price intervals related to Short Term Option Series (“STOS”) as well as to make certain corresponding changes to Rule 29.11, entitled “Terms of Index Options Contracts.”

The text of the proposed rule change is available at the Exchange’s website at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to harmonize the Exchange's rules with recently approved changes to the rules governing short-term option series programs of other options exchanges. Specifically, the Exchange is proposing to amend Interpretation and Policy .05 to Rule 19.6 for changes related to equity options and Rule 29.11(h) for changes related to index options in order to (i) allow the Exchange to list options in STOS for each of the next five Fridays that are business days and are not Fridays in which monthly options series or quarterly options series ("Short Term Expiration Dates") expire at one time for both equity and index options; (ii) state that additional series of STOS may be listed up to, and including on, the day of expiration for both equity and index options; (iii) expand the number of classes on which STOS may be opened from 30 to 50 for both equity and index options; (iv) modify the initial listing provision to allow the Exchange to open up to 30 STOS for each expiration date in a STOS class for equity options; (v) expand the strike price range limitations for STOS for equity options; (vi) allow the Exchange to list STOS in equity options in \$0.50 or greater strike intervals where the strike price is less than \$75.00, in \$1.00 or greater strike intervals where the strike price is

between \$75 and \$150, and in \$2.50 or greater strike intervals where the strike price is above \$150; and (vii) permit, for both equity and index options, an expanded number of STOS to be opened and to require delisting of certain STOS where the price of the underlying security or value of the underlying index has moved dramatically. Finally, the Exchange is proposing to make corrections to certain typos in the text of paragraph (c) and (d) of Interpretation and Policy .05 to Rule 19.6 in order to change references to “underlying index” to “underlying security.” The Exchange believes that the proposed rule changes would enable the Exchange to compete equally and fairly with other options exchanges in satisfying high market demand for weekly options and continuing strong customer demand to use STOS to execute hedging and trading strategies.

Proposals (i) and (ii)

First, the Exchange proposes to amend Interpretation and Policy .05 of Rule 19.6 and Rule 29.11(h), which codify the STOS program for equity options and index options, respectively, as follows: (i) to allow the Exchange to list options in STOS for each of the next five Short Term Expiration Dates expire [sic] at one time; and (ii) to state that additional series of STOS may be listed up to, and including on, the day of expiration. These proposed rule changes are identical to a recently approved filing by the Chicago Board Options Exchange (“CBOE”) and a copycat filing for immediate effectiveness by the International Securities Exchange (“ISE”) and substantially identical to a filing for immediate effectiveness by NYSE Arca, Inc. (“Arca”) except that, unlike the Arca filing, the Exchange is also proposing to amend its rules relating to STOS for index options.³

³ See Securities and Exchange Act Release Nos. 71005 (December 6, 2013), 78 FR 75395 (December 11, 2013) (SR-CBOE-2013-096) (approval order); 71033 (December 11,

Currently, Interpretation and Policy .05 of Rule 19.6 and Rule 29.11(h) provide that a STOS is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Thursday or Friday that is a business day and that expires at the close of business on each of the next five consecutive Fridays that are business days. The rules further state that if a Thursday or Friday is not a business day, the series may be opened on the first business day immediately prior to that Thursday or Friday and, if a Friday is not a business day, the series shall expire on the first business day immediately prior to that Friday. No STOS may expire in the same week in which a monthly or quarterly option series in the same class expires. Thus, because a Friday expiration may coincide with an existing expiration of a monthly or quarterly series of an option in the same class as the STOS option series, the current requirement that the Fridays be consecutive may mean that the Exchange cannot open five STOS expiration dates because of existing monthly or quarterly expirations.

The Exchange proposes to amend Interpretation and Policy .05 of Rule 19.6 and Rule 29.11(h) to remove the requirement that the five expiration dates be on consecutive Fridays and instead provide that the Exchange would have the ability to list a total of five STOS expirations at the same time, provided that the expirations are on “each of the next five Fridays” that do not include a monthly or quarterly options expiration date. As proposed, the Exchange would list each of the five STOS as close to the STOS opening date as possible so that the next five STOS may be listed at one time, not including the monthly or quarterly options. For example, where a quarterly option expires in week 1 and a monthly option expires in week 4, the Exchange could list new STOS as follows: week 1 quarterly option, week 2 STOS option, week 3 STOS option,

2013), 78 FR 76375 (December 17, 2013) (SR-ISE-2013-68); and 71750 (March 19, 2014), 79 FR 16416 (March 25, 2014) (SR-NYSEArca-2014-24).

week 4 monthly option, week 5 STOS option, week 6 STOS option, and week 7 STOS option.⁴

As another example, where a quarterly option expires in week 3 and a monthly option expires in week 6, the Exchange could list new STOS as follows: week 1 STOS option, week 2 STOS option, week 3 quarterly option, week 4 STOS option, week 5 STOS option, week 6 monthly option, week 7 STOS option.

The Exchange is also proposing to codify an existing practice by adding language to paragraph (d) of Interpretation and Policy .05 to Rule 19.6 and Rule 29.11(h)(4) to state that additional STOS may be added up to, and including on, the expiration date of the series and, correspondingly, to delete text from paragraph (f) to Policy .05 of Rule 19.6 and Rule 29.11(h)(6) that prohibits the opening of additional series during expiration week in classes listed pursuant to paragraphs (f) and (6), respectively. As discussed below, the Exchange rules specify the number of initial and additional series that the Exchange may open for each option class that participates in the STOS program. In practice, the Exchange, along with the other options exchanges, list additional STOS up to and on the expiration day, with the exception of STOS listed pursuant to paragraph (f) of Interpretation and Policy .05 to Rule 19.6 and Rule 29.11(h)(6), which prohibit the opening of additional series during expiration week in classes listed pursuant to those rules.⁵ Consistent with the actions taken by other options exchanges, the Exchange believes that codifying this practice will clarify authority that is not currently explicitly stated in its rules to add series up until and on the day of expiration and to make the Exchange's rules regarding the timing of opening additional STOS consistent with those of other

⁴ As proposed, the rules would not allow for there to not be a STOS expiration in week 7, but then to have a STOS option expire in week 8.

⁵ The Exchange notes that the Options Clearing Corporation (the "OCC") has the ability to accommodate adding STOS intraday.

options exchanges. Given the short lifespan of STOS, the Exchange believes that the ability to list new series of options intraday is appropriate.

Proposals (iii) – (vi)

The Exchange further proposes to amend its rules in order to: (i) expand the number of classes on which STOS may be opened from 30 to 50 for both equity and index options; (ii) modify the initial listing provision for equity options to allow the Exchange to open up to 30 STOS for each expiration date in a STOS class; (iii) expand the strike price range limitations for STOS in equity options; and (iv) allow the Exchange to list STOS in equity options in \$0.50 or greater strike intervals where the strike price is less than \$75.00, in \$1.00 or greater strike intervals where the strike price is between \$75 and \$150, and in \$2.50 or greater strike intervals where the strike price is above \$150. These proposed changes are substantially identical to a recent approved filing by NASDAQ OMX PHLX, LLC (“PHLX”) and copycat filings for immediate effectiveness by CBOE, ISE, and Arca, unless otherwise noted herein.⁶

Currently, the Exchange may select up to 30 currently listed option classes on which to list STOS and the Exchange may also list STOS on classes selected by other exchanges under their respective STOS programs. The Exchange may open up to 30 STOS per expiration comprised of up to 20 initial series and 10 additional series per expiration. The same number of strike prices must be opened above and below the value of the underlying security at about the

⁶ See Securities Exchange Act Release Nos. 70682 (October 15, 2013), 78 FR 62809 (October 22, 2013) (SR-PHLX-2013-101) (notice of filing); 71004 (December 6, 2013), 78 FR 75437 (December 11, 2013) (approval order); Securities and Exchange Act Release No. 71079 (December 16, 2013), 78 FR 77188 (December 20, 2013) (SR-CBOE-2013-121); 71034 (December 11, 2013), 78 FR 76363 (December 17, 2013) (SR-ISE-2013-69); and 71750 (March 19, 2014), 79 FR 16416 (March 25, 2014) (SR-NYSEArca-2014-24). The Exchange notes that the number of classes that may participate in the STOS Program is aggregated between equity options and index options and is not apportioned between equity options and index options.

time that the STOS are initially opened for trading on the Exchange. Strike prices must be within 30% above or below the current value of the underlying security from the preceding day.

The Exchange's rules currently provide that the intervals between strike prices are to be the same as the strike prices for series in the monthly options on the same class, however, the Exchange may open STOS for trading at \$0.50 strike price intervals for option classes that trade in one dollar increments and are listed pursuant to the STOS rules. The Exchange may also open additional strike prices of STOS that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series.

The Exchange proposes to expand the STOS program as the Exchange believes an expansion will benefit the marketplace while aligning the Exchange with other options exchanges.⁷

First, the Exchange is proposing to increase the number of STOS classes that may be opened after an option class has been approved for listing and trading on the Exchange. The Exchange proposes to amend paragraph (a) of Interpretation and Policy .05 to Rule 19.6 and Rule 29.11(h)(1) so that the Exchange may select up to fifty currently listed option classes on which STOS may be opened. The Exchange also proposes to amend paragraph (c) of Interpretation and Policy .05 to Rule 19.6 so that the Exchange may initially open up to 30 series of STOS for equity options for each expiration date in that class.

Second, the Exchange proposes to amend paragraphs (c) and (d) of Interpretation and Policy .05 to Rule 19.6 to indicate that any initial or additional strike prices listed by the Exchange shall be reasonably close to the price of the underlying equity security and within the following parameters: (i) if the price of the underlying security is less than or equal to \$20, strike

⁷ See supra note 8.

prices shall be not more than one hundred percent (100%) above or below the price of the underlying security; and (ii) if the price of the underlying security is greater than \$20, strike prices shall be not more than fifty percent (50% above or below the price of the underlying security).

The Exchange is also proposing to add language stating that the Exchange may open additional strike prices of STOS that are more than 50% above or below the current value of the underlying security (if the price is greater than \$20); provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers and that adding such strike prices would comply with the Options Listing Procedures Plan (“OLPP”). Market Makers trading for their own account shall not be considered when determining customer interest under this provision.

This proposal is substantially identical to the recently amended rules of other exchanges,⁸ excluding Arca, except that the Exchange is proposing to include language in the rule that indicates that the addition of strike prices of STOS that are more than 50% above or below the current value of the underlying security (if the price is greater than \$20) must comply with the OLPP. Each of the other options exchanges referenced have a similar requirement, again, excluding Arca, however such requirement is located elsewhere in their respective rules.⁹ While provisions (i) and (ii) above are identical to Arca’s amended rule, Arca’s rules do not include any reference to opening additional strike prices of STOS that are more than 50% above or below the current value of an underlying security priced greater than \$20.

⁸ See PHLX Commentary .11(d) of Rule 1012; CBOE 5.5(d)(4); ISE Supplementary Material .02(d) to Rule 504. See also PHLX Commentary .10(a) of Rule 1012; CBOE Rule 5.5A; ISE Rule 504A(b)(i).

⁹ See PHLX Commentary .10(a) of Rule 1012; CBOE Rule 5.5A; ISE Rule 504A(b)(i).

Next, the Exchange is proposing to amend paragraph (e) of Interpretation and Policy .05 to Rule 19.6 to permit the Exchange to list strike price intervals of: (i) \$0.50 or greater where the strike price is less than \$75; (ii) \$1.00 or greater where the strike price is between \$75 and \$150; or (iii) \$2.50 or greater for strike prices greater than \$150. Currently, paragraph (e) of Interpretation and Policy .05 to Rule 19.6 permits the Exchange to list strike price intervals on STOS that are the same as strike prices for series in that same option class that expire in accordance with the normal monthly expiration cycle or, under paragraph (f) of Interpretation and Policy .05 to Rule 19.6, where the option class trades in one dollar increments and is in the STOS program, the Exchange may open for trading STOS at \$0.50 strike price intervals. The Exchange is not proposing to delete either of these existing rules.

This proposal is a competitive proposal designed to bring the Exchange's rules for the strike intervals in STOS in line with those of other options exchanges, as recently amended.¹⁰ Other options exchanges originally added the rules permitting them to list strike price intervals of \$0.50 or greater where the strike price is less than \$75 and \$1.00 or greater where the strike price is between \$75 and \$150.¹¹ In a separate filing, the other exchanges recently amended their rules to permit the use of strike price intervals of \$2.50 or greater for strike prices greater than \$150.¹²

Proposal (vii)

¹⁰ See supra note 8.

¹¹ See Securities Exchange Act Release Nos. 67446 (July 16, 2012), 77 FR 42780 (July 20, 2012) (SR-PHLX-2012-78) (notice of filing); 67753 (August 29, 2012), 77 FR 54635 (September 5, 2012) (approval order); Securities and Exchange Act Release No. 68074 (October 19, 2012), 77 FR 65241 (October 25, 2012) (SR-CBOE-2012-092); 70335 (September 6, 2013), 78 FR 56253 (September 12, 2013) (SR-ISE-2013-47); and 68194 (November 8, 2012), 77 FR 68172 (November 15, 2012) (SR-NYSEArca-2012-114).

¹² See supra note 8.

The Exchange is also proposing to add new language to both paragraph (d) of Interpretation and Policy .05 to Rule 19.6 and Rule 29.11(h)(4) to allow the Exchange, in the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security or the value of the underlying index, as applicable, to delist series with no open interest in both the call and the put series having a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration week; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration week, so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security or the value of the underlying index. Further, in the event that all existing series have open interest and there are no series at least 10% above or below the current price of the underlying security or the value of the underlying index, the Exchange may list additional series, in excess of the 30 allowed currently under current paragraphs (c) and (d) of Interpretation and Policy .05 to Rule 19.6 and Rule 29.11(h)(3) and (4), that are at least 10% and not more than 30% above or below the current price of the underlying security or the value of the underlying index. This change is being proposed notwithstanding the current cap of 30 series per class under the STOS program. This change is substantially identical to that of recently approved changes made to the rules of Arca and NYSE MKT LLC (“MKT”)¹³ and changes made immediately effective by ISE.¹⁴

Finally, the Exchange is proposing to correct several typographical errors in paragraphs (c) and (d) of Interpretation and Policy .05 to Rule 19.6 in which the Rules refer to “underlying

¹³ See Securities Exchange Act Release Nos. 68190 (November 8, 2012) (SR-NYSEArca-2012-95) and 68191 (November 8, 2012) (SR-NYSEMKT-2012-42).

¹⁴ See Securities Exchange Act Release No. 68318 (November 29, 2012), 77 FR 72426 (December 5, 2012) (SR-ISE-2012-90).

index” instead of “underlying security.” These changes are non-substantive and are intended to make sure that the rule text is as accurate and clear as possible.

2. Statutory Basis

The rule changes proposed herein are consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹⁵ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,¹⁶ because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5)¹⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that all of the elements of this proposal, including (i) allowing the Exchange to list options in STOS for each of the next five Fridays that are business days and are not Fridays in which monthly options series or quarterly options series (“Short Term Expiration Dates”) expire at one time for both equity and index options; (ii) stating that additional series of STOS may be listed up to, and including on, the day of expiration for both equity and index options; (iii) expanding the number of classes on which STOS may be opened from 30 to 50 for both equity and index options; (iv) modifying the initial listing provision to allow the Exchange to open up to 30 STOS for each expiration date in a STOS class for equity options; (v) expanding

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ Id.

the strike price range limitations for STOS for equity options; (vi) allowing the Exchange to list STOS in equity options in \$0.50 or greater strike intervals where the strike price is less than \$75.00, in \$1.00 or greater strike intervals where the strike price is between \$75 and \$150, and in \$2.50 or greater strike intervals where the strike price is above \$150; (vii) permitting, for both equity and index options, an expanded number of STOS to be opened and to require delisting of certain STOS where the price of the underlying security has moved dramatically; and (viii) making corrections to certain typos to change references to “underlying index” to “underlying security,” will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions in a greater number of securities and indices, thus allowing them to better manage their risk exposure. The Exchange further believes that this proposal to expand the STOS program would make the STOS program more effective, would harmonize the provisions with the OLPP, and would create more clarity in the Exchange’s rules to the benefit of investors, market participants, and the market in general. For the foregoing reasons, the Exchange also believes that the proposed rule changes are equitable and not unfairly discriminatory as the benefits from the expansion of the STOS program will be available to all market participants.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the proposed expansion of the STOS program. While the expansion of the STOS program is expected to generate additional quote traffic, the Exchange believes that this increased traffic will be manageable. The Exchange also notes that any series added under this expansion would be subject to message traffic mitigation under BATS Rule 21.14. Although the number of classes participating in the

STOS program would increase, that increase would be limited, as described above, and consistent with existing, similar programs on other exchanges.¹⁸ Further, the Exchange does not believe that the proposal will result in a material proliferation of additional series because it is limited to a fixed number of classes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the Exchange believes the proposal is pro-competitive and will allow the Exchange to compete more effectively with other options exchanges that have already adopted changes to their STOS programs that are substantially identical to the changes proposed by this filing.¹⁹ The Exchange believes that the proposal will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the

¹⁸ See supra notes 5, 8, 10, 13, 15, and 16.

¹⁹ See supra notes 5, 8, 10, 12, 14, and 15.

Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁰ and Rule 19b-4(f)(6) thereunder.²¹

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will allow the Exchange to compete with other options exchanges that have expanded their STOS Programs without putting the Exchange at a competitive disadvantage. The Exchange also stated that the proposal would help eliminate investor confusion and promote competition among the options exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest; and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.²²

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

²² For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BATS-2014-013 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BATS-2014-013. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-BATS-2014-013 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2014-10042 Filed 05/01/2014 at 8:45 am; Publication Date: 05/02/2014]

²³ 17 CFR 200.30-3(a)(12).